

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>CARLA COUNTS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-19-678-G</b>
	)	
<b>HEALTH CARE SERVICE</b>	)	
<b>CORPORATION, a mutual legal</b>	)	
<b>reserve company, d/b/a BLUE CROSS</b>	)	
<b>AND BLUE SHIELD OF OKLAHOMA</b>	)	
<b>et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

On June 14, 2019, Plaintiff Carla Counts filed a Motion to Dismiss for Non-Joinder of Indispensable Party (Doc. No. 51), requesting that the Court dismiss this action without prejudice under Rules 19(b) and 41(a)(2) of the Federal Rules of Civil Procedure.

Because no defendant has answered or moved for summary judgment, Plaintiff's motion operates as a dismissal of this lawsuit "without a court order." *See* Fed. R. Civ. P. 41(a)(1)(A)(i); *Janssen v. Harris*, 321 F.3d 998, 999-1001 (10th Cir. 2003) (holding that order of dismissal was a nullity because "under Rule 41(a)(1)(i) [now Rule 41(a)(1)(A)(i)], a plaintiff has an absolute right to dismiss without prejudice and no action is required on the part of the court"); *see also De Leon v. Marcos*, 659 F.3d 1276, 1283 (10th Cir. 2011) (explaining that, unlike an answer or a motion for summary judgment, a motion to dismiss does not preclude unilateral dismissal under Rule 41(a)(1)(A)(i)); 9 Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2363 (3d ed. 2019) ("[A] notice in

the form of a motion is sufficient.”). The filing of a Rule 41(a)(1)(A)(i) notice “closes the file” and “the court has no role to play.” *Janssen*, 321 F.3d at 1000 (internal quotation marks omitted).

This action therefore is deemed dismissed without prejudice effective June 14, 2019. *See* Fed. R. Civ. P. 41(a)(1)(B).

IT IS SO ORDERED this 19th day of September, 2019.

  
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CHARLES B. GOODWIN  
United States District Judge